

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
AIKEN DIVISION**

Magaline Austin, )  
Plaintiff, ) Civil Action No.: 1:17-cv-01797-JMC  
v. )  
Nancy A. Berryhill, Acting Commissioner )  
of Social Security Administration, )  
Defendant. )  
\_\_\_\_\_  
)

**ORDER**

This matter is before the court for a review of the Magistrate Judge's Report and Recommendation ("Report") (ECF No. 14), filed on April 24, 2018, recommending that the decision of the Commissioner of Social Security to deny Plaintiff's claim for Disability Insurance Benefits and Supplemental Security Income be reversed and remanded pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings in accordance with the Report.<sup>1</sup> The report sets forth the relevant facts and legal standards which this court incorporates herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The

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<sup>1</sup> In the Report, the Magistrate Judge finds the Administrative Law Judge's error at step five of the disability analysis is a sufficient basis to remand this matter for further consideration without considering Plaintiff's other claims of error. Thus, the court declines to address Plaintiff's remaining allegations of error. (*See* ECF No. 14 at 55). *See also Broom v. Berryhill*, No. 816CV03291RBHJDA, 2018 WL 816826 at \*10-11 (D.S.C. Jan. 22, 2018) (declining to address the plaintiff's remaining allegations of error because the error at step five is a sufficient basis for remand), *report and recommendation adopted*, No. 8:16-CV-03291-RBH, 2018 WL 806661 (D.S.C. Feb. 8, 2018). However, on remand the Commissioner should consider the Plaintiff's remaining allegations of error as well. *See generally*, 20 C.F.R. § 404.1520, § 416.920 (defining the five-step evaluation process for determining if one is "under a disability,").

responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court reviews *de novo* only those portions of the Report and Recommendation to which specific objections are filed. *See Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). The court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The parties were notified of their right to file objections. On April 30, 2018, the Commissioner filed her Reply to the Report (ECF No. 15), providing notice that the agency would not file objections to the Report. Plaintiff did not file any objections to the Report as well.

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Instead, the court must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4<sup>th</sup> Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a careful review of the Report and the record in this case, the court does not find clear error and **ACCEPTS** the Report (ECF No. 14). Therefore, the Commissioner's decision is reversed and remanded for further proceedings.

**IT IS SO ORDERED.**



United States District Judge

May 24, 2018 Columbia,  
South Carolina